

FIRST REGULAR SESSION

# SENATE BILL NO. 23

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CALLAHAN.

Pre-filed December 1, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0526S.02I

## AN ACT

To repeal sections 160.534, 163.011, 313.775, 313.778, and 313.822, RSMo, and to enact in lieu thereof four new sections relating to education.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 160.534, 163.011, 313.775, 313.778, and 313.822, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 160.534, 163.011, 313.778, and 313.822, to read as follows:

160.534. 1. For fiscal year 1996 and each subsequent fiscal year, any amount of the excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the school district bond fund as provided in section 164.303, RSMo, shall be transferred to the classroom trust fund. Such moneys shall be distributed in the manner provided in section 163.043, RSMo.

2. Starting in fiscal year 2009, and for each subsequent fiscal year, all excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the classroom trust fund for fiscal year 2008 plus the amount appropriated to the school district bond fund in accordance with section 164.303, RSMo, shall be deposited into the [schools first elementary and secondary education improvement] **Missouri higher education tuition reduction** fund.

[3. The amounts deposited in the schools first elementary and secondary education improvement fund pursuant to this section shall constitute new and additional funding for elementary and secondary education and shall not be used to replace existing funding provided for elementary and secondary education.]

163.011. As used in this chapter unless the context requires otherwise:

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

2 (1) "Adjusted operating levy", the sum of tax rates for the current year for  
3 teachers' and incidental funds for a school district as reported to the proper  
4 officer of each county pursuant to section 164.011, RSMo;

5 (2) "Average daily attendance", the quotient or the sum of the quotients  
6 obtained by dividing the total number of hours attended in a term by resident  
7 pupils between the ages of five and twenty-one by the actual number of hours  
8 school was in session in that term. To the average daily attendance of the  
9 following school term shall be added the full-time equivalent average daily  
10 attendance of summer school students. "Full-time equivalent average daily  
11 attendance of summer school students" shall be computed by dividing the total  
12 number of hours, except for physical education hours that do not count as credit  
13 toward graduation for students in grades nine, ten, eleven, and twelve, attended  
14 by all summer school pupils by the number of hours required in section 160.011,  
15 RSMo, in the school term. For purposes of determining average daily attendance  
16 under this subdivision, the term "resident pupil" shall include all children  
17 between the ages of five and twenty-one who are residents of the school district  
18 and who are attending kindergarten through grade twelve in such district. If a  
19 child is attending school in a district other than the district of residence and the  
20 child's parent is teaching in the school district or is a regular employee of the  
21 school district which the child is attending, then such child shall be considered  
22 a resident pupil of the school district which the child is attending for such period  
23 of time when the district of residence is not otherwise liable for tuition. Average  
24 daily attendance for students below the age of five years for which a school  
25 district may receive state aid based on such attendance shall be computed as  
26 regular school term attendance unless otherwise provided by law;

27 (3) "Current operating expenditures":

28 (a) For the fiscal year 2007 calculation, "current operating expenditures"  
29 shall be calculated using data from fiscal year 2004 and shall be calculated as all  
30 expenditures for instruction and support services except capital outlay and debt  
31 service expenditures minus the revenue from federal categorical sources; food  
32 service; student activities; categorical payments for transportation costs pursuant  
33 to section 163.161; state reimbursements for early childhood special education;  
34 the career ladder entitlement for the district, as provided for in sections 168.500  
35 to 168.515, RSMo; the vocational education entitlement for the district, as  
36 provided for in section 167.332, RSMo; and payments from other districts;

37 (b) In every fiscal year subsequent to fiscal year 2007, current operating

38 expenditures shall be the amount in paragraph (a) **of this subdivision** plus any  
39 increases in state funding pursuant to sections 163.031 and 163.043 subsequent  
40 to fiscal year 2005, not to exceed five percent, per recalculation, of the state  
41 revenue received by a district in the 2004-05 school year from the foundation  
42 formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and  
43 free textbook payments for any district from the first preceding calculation of the  
44 state adequacy target;

45 (4) "District's tax rate ceiling", the highest tax rate ceiling in effect  
46 subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling  
47 shall not contain any tax levy for debt service;

48 (5) "Dollar-value modifier", an index of the relative purchasing power of  
49 a dollar, calculated as one plus fifteen percent of the difference of the regional  
50 wage ratio minus one, provided that the dollar value modifier shall not be applied  
51 at a rate less than 1.0:

52 (a) "County wage per job", the total county wage and salary disbursements  
53 divided by the total county wage and salary employment for each county and the  
54 city of St. Louis as reported by the Bureau of Economic Analysis of the United  
55 States Department of Commerce for the fourth year preceding the payment year;

56 (b) "Regional wage per job":

57 a. The total Missouri wage and salary disbursements of the metropolitan  
58 area as defined by the Office of Management and Budget divided by the total  
59 Missouri metropolitan wage and salary employment for the metropolitan area for  
60 the county signified in the school district number or the city of St. Louis, as  
61 reported by the Bureau of Economic Analysis of the United States Department  
62 of Commerce for the fourth year preceding the payment year and recalculated  
63 upon every decennial census to incorporate counties that are newly added to the  
64 description of metropolitan areas; or if no such metropolitan area is established,  
65 then:

66 b. The total Missouri wage and salary disbursements of the micropolitan  
67 area as defined by the Office of Management and Budget divided by the total  
68 Missouri micropolitan wage and salary employment for the micropolitan area for  
69 the county signified in the school district number, as reported by the Bureau of  
70 Economic Analysis of the United States Department of Commerce for the fourth  
71 year preceding the payment year, if a micropolitan area for such county has been  
72 established and recalculated upon every decennial census to incorporate counties  
73 that are newly added to the description of micropolitan areas; or

74 c. If a county is not part of a metropolitan or micropolitan area as  
75 established by the Office of Management and Budget, then the county wage per  
76 job, as defined in paragraph (a) of this subdivision, shall be used for the school  
77 district, as signified by the school district number;

78 (c) "Regional wage ratio", the ratio of the regional wage per job divided by  
79 the state median wage per job;

80 (d) "State median wage per job", the fifty-eighth highest county wage per  
81 job;

82 (6) "Free and reduced lunch pupil count", the number of pupils eligible for  
83 free and reduced lunch on the last Wednesday in January for the preceding school  
84 year who were enrolled as students of the district, as approved by the department  
85 in accordance with applicable federal regulations;

86 (7) "Free and reduced lunch threshold" shall be calculated by dividing the  
87 total free and reduced lunch pupil count of every performance district that falls  
88 entirely above the bottom five percent and entirely below the top five percent of  
89 average daily attendance, when such districts are rank-ordered based on their  
90 current operating expenditures per average daily attendance, by the total average  
91 daily attendance of all included performance districts;

92 (8) "Limited English proficiency pupil count", the number in the preceding  
93 school year of pupils aged three through twenty-one enrolled or preparing to  
94 enroll in an elementary school or secondary school who were not born in the  
95 United States or whose native language is a language other than English or are  
96 Native American or Alaskan native, or a native resident of the outlying areas,  
97 and come from an environment where a language other than English has had a  
98 significant impact on such individuals' level of English language proficiency, or  
99 are migratory, whose native language is a language other than English, and who  
100 come from an environment where a language other than English is dominant; and  
101 have difficulties in speaking, reading, writing, or understanding the English  
102 language sufficient to deny such individuals the ability to meet the state's  
103 proficient level of achievement on state assessments described in Public Law  
104 107-10, the ability to achieve successfully in classrooms where the language of  
105 instruction is English, or the opportunity to participate fully in society;

106 (9) "Limited English proficiency threshold" shall be calculated by dividing  
107 the total limited English proficiency pupil count of every performance district that  
108 falls entirely above the bottom five percent and entirely below the top five percent  
109 of average daily attendance, when such districts are rank-ordered based on their

110 current operating expenditures per average daily attendance, by the total average  
111 daily attendance of all included performance districts;

112 (10) "Local effort":

113 (a) For the fiscal year 2007 calculation, "local effort" shall be computed as  
114 the equalized assessed valuation of the property of a school district in calendar  
115 year 2004 divided by one hundred and multiplied by the performance levy less the  
116 percentage retained by the county assessor and collector plus one hundred  
117 percent of the amount received in fiscal year 2005 for school purposes from  
118 intangible taxes, fines, escheats, payments in lieu of taxes and receipts from  
119 state-assessed railroad and utility tax, one hundred percent of the amount  
120 received for school purposes pursuant to the merchants' and manufacturers' taxes  
121 under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts  
122 received for school purposes from federal properties under sections 12.070 and  
123 12.080, RSMo, except when such amounts are used in the calculation of federal  
124 impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues  
125 received for school purposes from the school district trust fund under section  
126 163.087, and one hundred percent of any local earnings or income taxes received  
127 by the district for school purposes. Under this paragraph, for a special district  
128 established under sections 162.815 to 162.940, RSMo, in a county with a charter  
129 form of government and with more than one million inhabitants, a tax levy of zero  
130 shall be utilized in lieu of the performance levy for the special school district;

131 (b) In every year subsequent to fiscal year 2007, "local effort" shall be the  
132 amount calculated under paragraph (a) of this subdivision plus any increase in  
133 the amount received for school purposes from fines. If a district's assessed  
134 valuation has decreased subsequent to the calculation outlined in paragraph (a)  
135 of this subdivision, the district's local effort shall be calculated using the district's  
136 current assessed valuation in lieu of the assessed valuation utilized in calculation  
137 outlined in paragraph (a) of this subdivision;

138 (11) "Membership" shall be the average of:

139 (a) The number of resident full-time students and the full-time equivalent  
140 number of part-time students who were enrolled in the public schools of the  
141 district on the last Wednesday in September of the previous year and who were  
142 in attendance one day or more during the preceding ten school days; and

143 (b) The number of resident full-time students and the full-time equivalent  
144 number of part-time students who were enrolled in the public schools of the  
145 district on the last Wednesday in January of the previous year and who were in

146 attendance one day or more during the preceding ten school days, plus the  
147 full-time equivalent number of summer school pupils. "Full-time equivalent  
148 number of part-time students" is determined by dividing the total number of  
149 hours for which all part-time students are enrolled by the number of hours in the  
150 school term. "Full-time equivalent number of summer school pupils" is  
151 determined by dividing the total number of hours for which all summer school  
152 pupils were enrolled by the number of hours required pursuant to section  
153 160.011, RSMo, in the school term. Only students eligible to be counted for  
154 average daily attendance shall be counted for membership;

155 (12) "Operating levy for school purposes", the sum of tax rates levied for  
156 teachers' and incidental funds plus the operating levy or sales tax equivalent  
157 pursuant to section 162.1100, RSMo, of any transitional school district containing  
158 the school district, in the payment year, not including any equalized operating  
159 levy for school purposes levied by a special school district in which the district is  
160 located;

161 (13) "Performance district", any district that has met all performance  
162 standards and indicators as established by the department of elementary and  
163 secondary education for purposes of accreditation under section 161.092, RSMo,  
164 and as reported on the final annual performance report for that district each year;

165 (14) "Performance levy", three dollars and forty-three cents;

166 (15) "School purposes" pertains to teachers' and incidental funds;

167 (16) "Special education pupil count", the number of public school students  
168 with a current individualized education program and receiving services from the  
169 resident district as of December first of the preceding school year, except for  
170 special education services provided through a school district established under  
171 sections 162.815 to 162.940, RSMo, in a county with a charter form of government  
172 and with more than one million inhabitants, in which case the sum of the  
173 students in each district within the county exceeding the special education  
174 threshold of each respective district within the county shall be counted within the  
175 special district and not in the district of residence for purposes of distributing the  
176 state aid derived from the special education pupil count;

177 (17) "Special education threshold" shall be calculated by dividing the total  
178 special education pupil count of every performance district that falls entirely  
179 above the bottom five percent and entirely below the top five percent of average  
180 daily attendance, when such districts are rank-ordered based on their current  
181 operating expenditures per average daily attendance, by the total average daily

182 attendance of all included performance districts;

183 (18) "State adequacy target", the sum of the current operating  
184 expenditures of every performance district that falls entirely above the bottom  
185 five percent and entirely below the top five percent of average daily attendance,  
186 when such districts are rank-ordered based on their current operating  
187 expenditures per average daily attendance, divided by the total average daily  
188 attendance of all included performance districts [plus the total amount of funds  
189 placed in the schools first elementary and secondary education improvement fund  
190 in the preceding fiscal year divided by the total average daily attendance of all  
191 school districts for the preceding fiscal year]. The department of elementary and  
192 secondary education shall first calculate the state adequacy target for fiscal year  
193 2007 and recalculate the state adequacy target every two years using the most  
194 current available data[; provided that the state adequacy target shall be  
195 recalculated every year to reflect the per-pupil amount of funds placed in the  
196 schools first elementary and secondary education improvement fund in the  
197 preceding fiscal year]. The recalculation shall never result in a decrease from the  
198 previous state adequacy target amount. Should a recalculation result in an  
199 increase in the state adequacy target amount, fifty percent of that increase shall  
200 be included in the state adequacy target amount in the year of recalculation, and  
201 fifty percent of that increase shall be included in the state adequacy target  
202 amount in the subsequent year. The state adequacy target may be adjusted to  
203 accommodate available appropriations;

204 (19) "Teacher", any teacher, teacher-secretary, substitute teacher,  
205 supervisor, principal, supervising principal, superintendent or assistant  
206 superintendent, school nurse, social worker, counselor or librarian who shall,  
207 regularly, teach or be employed for no higher than grade twelve more than  
208 one-half time in the public schools and who is certified under the laws governing  
209 the certification of teachers in Missouri;

210 (20) "Weighted average daily attendance", the average daily attendance  
211 plus the product of twenty-five hundredths multiplied by the free and reduced  
212 lunch pupil count that exceeds the free and reduced lunch threshold, plus the  
213 product of seventy-five hundredths multiplied by the number of special education  
214 pupil count that exceeds the special education threshold, and plus the product of  
215 six-tenths multiplied by the number of limited English proficiency pupil count  
216 that exceeds the limited English proficiency threshold. For special districts  
217 established under sections 162.815 to 162.940, RSMo, in a county with a charter

218 form of government and with more than one million inhabitants, weighted  
219 average daily attendance shall be the average daily attendance plus the product  
220 of twenty-five hundredths multiplied by the free and reduced lunch pupil count  
221 that exceeds the free and reduced lunch threshold, plus the product of  
222 seventy-five hundredths multiplied by the sum of the special education pupil  
223 count that exceeds the threshold for each county district, plus the product of  
224 six-tenths multiplied by the limited English proficiency pupil count that exceeds  
225 the limited English proficiency threshold. None of the districts comprising a  
226 special district established under sections 162.815 to 162.940, RSMo, in a county  
227 with a charter form of government and with more than one million inhabitants,  
228 shall use any special education pupil count in calculating their weighted average  
229 daily attendance.

313.778. There is hereby created in the state treasury the ["Schools First  
2 Elementary and Secondary Education Improvement] **"Missouri higher  
3 education tuition reduction Fund"**, which shall consist of taxes on excursion  
4 gambling boat proceeds as provided in subsection 2 of section 160.534, RSMo, to  
5 be used solely for the purpose of [increasing funding for elementary and  
6 secondary education] **reducing tuition rates at Missouri's public  
7 institutions of higher learning. The coordinating board for higher  
8 education shall implement a procedure for reimbursing public higher  
9 education institutions that either reduce tuition or increase tuition at  
10 lower rates than previously designed. The coordinating board for  
11 higher education shall promulgate rules for the implementation of this  
12 section. Any rule or portion of a rule, as that term is defined in section  
13 536.010, RSMo, that is created under the authority delegated in this  
14 section shall become effective only if it complies with and is subject to  
15 all of the provisions of chapter 536, RSMo, and, if applicable, section  
16 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
17 and if any of the powers vested with the general assembly pursuant to  
18 chapter 536, RSMo, to review, to delay the effective date, or to  
19 disapprove and annul a rule are subsequently held unconstitutional,  
20 then the grant of rulemaking authority and any rule proposed or  
21 adopted after August 28, 2009, shall be invalid and void. [The schools  
22 first elementary and secondary education improvement] **Monies in the  
23 Missouri higher education tuition reduction fund** shall be state revenues  
24 collected from gaming activities for purposes of article III, section 39(d) of the**

25 constitution. Moneys in the [schools first elementary and secondary education  
26 improvement] fund shall be kept separate from the general revenue fund as well  
27 as any other funds or accounts in the state treasury. The state treasurer shall  
28 be custodian of the fund and may approve disbursements from the fund in  
29 accordance with sections 30.170 and 30.180, RSMo. Notwithstanding the  
30 provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the  
31 fund at the end of the biennium shall not revert to the credit of the general  
32 revenue fund. The state treasurer shall invest moneys in the fund in the same  
33 manner as other funds are invested. Any interest and moneys earned on such  
34 investments shall be credited to the fund.

313.822. A tax is imposed on the adjusted gross receipts received from  
2 gambling games authorized pursuant to sections 313.800 to 313.850 at the rate  
3 of twenty-one percent. The taxes imposed by this section shall be returned to the  
4 commission in accordance with the commission's rules and regulations who shall  
5 transfer such taxes to the director of revenue. All checks and drafts remitted for  
6 payment of these taxes and fees shall be made payable to the director of revenue.  
7 If the commission is not satisfied with the return or payment made by any  
8 licensee, it is hereby authorized and empowered to make an assessment of the  
9 amount due based upon any information within its possession or that shall come  
10 into its possession. Any licensee against whom an assessment is made by the  
11 commission may petition for a reassessment. The request for reassessment shall  
12 be made within twenty days from the date the assessment was mailed or  
13 delivered to the licensee, whichever is earlier. Whereupon the commission shall  
14 give notice of a hearing for reassessment and fix the date upon which the hearing  
15 shall be held. The assessment shall become final if a request for reassessment  
16 is not received by the commission within the twenty days. Except as provided in  
17 this section, on and after April 29, 1993, all functions incident to the  
18 administration, collection, enforcement, and operation of the tax imposed by  
19 sections 144.010 to 144.525, RSMo, shall be applicable to the taxes and fees  
20 imposed by this section.

21 (1) Each excursion gambling boat shall designate a city or county as its  
22 home dock. The home dock city or county may enter into agreements with other  
23 cities or counties authorized pursuant to subsection 10 of section 313.812 to share  
24 revenue obtained pursuant to this section. The home dock city or county shall  
25 receive ten percent of the adjusted gross receipts tax collections, as levied  
26 pursuant to this section, for use in providing services necessary for the safety of

27 the public visiting an excursion gambling boat. Such home dock city or county  
28 shall annually submit to the commission a shared revenue agreement with any  
29 other city or county. All moneys owed the home dock city or county shall be  
30 deposited and distributed to such city or county in accordance with rules and  
31 regulations of the commission. All revenues provided for in this section to be  
32 transferred to the governing body of any city not within a county and any city  
33 with a population of over three hundred fifty thousand inhabitants shall not be  
34 considered state funds and shall be deposited in such city's general revenue fund  
35 to be expended as provided for in this section.

36 (2) The remaining amount of the adjusted gross receipts tax shall be  
37 deposited in the state treasury to the credit of the "Gaming Proceeds for  
38 Education Fund" which is hereby created in the state treasury. Moneys deposited  
39 in this fund shall be kept separate from the general revenue fund as well as any  
40 other funds or accounts in the state treasury, shall be used solely for education  
41 pursuant to the Missouri Constitution and shall be considered the proceeds of  
42 excursion boat gambling and state funds pursuant to article IV, section 15 of the  
43 Missouri Constitution. All interest received on the gaming proceeds for education  
44 fund shall be credited to the gaming proceeds for education fund. Appropriation  
45 of the moneys deposited into the gaming proceeds for education fund shall be  
46 pursuant to state law.

47 (3) The state auditor shall perform an annual audit of the gaming  
48 proceeds for education fund and the [schools first elementary and secondary  
49 education improvement] **Missouri higher education tuition reduction** fund,  
50 which shall include the evaluation of whether appropriations for elementary and  
51 secondary education have increased and are being used as intended by this  
52 act. The state auditor shall make copies of each audit available to the public and  
53 to the general assembly.

[313.775. This act shall be known and may be cited as "The  
2 Schools First Elementary and Secondary Education Funding  
3 Initiative".]

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